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EXAMINER

FLANDERS, ANDREW C

ART UNIT

PAPER NUMBER

2615

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,029

Applicant(s)

KANO ET AL.

Examiner

Andrew C. Flanders

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 13 February 2006 have been fully considered but they are not persuasive.

Applicant Alleges:

"The applicant respectfully submits that a mouse, such as the mouse in the Real reference, is not a remote controller in that the mouse actually interfaces with the application software GUI on the screen by directing a cursor on a display connected to the computer (i.e. apparatus) having the Real Jukebox software installed. The mouse is not remotely controlling the computer. Instead, the mouse is local to the computer and the mouse along with the application software GUI is locally controlling the computer with the Real Jukebox software is installed. Accordingly, applicant respectfully submits that the mouse disclosed in the Real reference is not a remote controller and thus claim 1 distinguishes over the Real reference."

Examiner respectfully disagrees with this allegation. Applicant is alleging that the mouse is not remotely controlling the computer because the mouse is local to the computer and the mouse controls the computer with the Real Jukebox software. As an initial matter, a definition of a remote controller is stated below as defined by dictionary.com:

1. The control of an activity, processor, or machine from a distance, as radioed by instructions or coded signals.
2. A device used to control an apparatus or machine from a distance.

The Examiner submits that the mouse recited in the Real reference and applied in the current office action reads upon both of these definitions. The mouse controls an

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activity, processor or machine (computer) from a distance, as radioed by instructions or coded signals (i.e. the movement of the mouse and its clicks are transmitted to the computer). Secondly, the mouse is a device used to control an apparatus or machine (computer) from a distance. As such, this argument is not persuasive and the rejection stands.

Applicant further alleges:

"It is not the same because the Real reference is not disclosing receiving a storage instruction signal transmitted from said remote controller, by means of a signal reception section of said apparatus, as is recited in claim 1, as amended. The Real reference is disclosing receiving a signal which identifies movements of a peripheral device (i.e., the mouse) and also identifying what buttons are selected on the mouse. In other words, the Real reference is disclosing the reception of a signal identifying directional information along with button selection information. The operating system software receives this information and application software GUI (i.e., the Real Jukebox software GUI), which then in turn requests that current settings of an equalizer are saved (within the application software, i.e., the Real Jukebox software). In contrast, claim 1 specifies receiving, from a remote controller, a storage instruction signal. The apparatus is receiving the storage instruction signal from claim 1's remote controller, which is not done in the Real reference."

Examiner respectfully disagrees with Applicant's allegation. Emphasis should be placed upon Applicant's statement "The Real reference is disclosing receiving a signal which identifies movements of a peripheral device (i.e., the mouse) and also identifying what buttons are selected on the mouse. In other words, the Real reference is disclosing the reception of a signal identifying directional information along with button selection information." Thus Applicant agrees essentially that Real teaches a step of

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receiving an instruction signal transmitted from said remote controller, by means of a signal reception section of said apparatus.

Applicant then argues that since the operating system takes this information and requests that the current settings of the equalizer are saved based upon the location of the cursor on the screen, the limitation of receiving, from a remote controller, a storage instruction signal is not met by the Real reference.

However, when this mouse is placed over the save settings as command, any click of the mouse effectively becomes a storage instruction. Thus, any click of the mouse provides a storage instruction whenever the mouse is placed over the correct area. The current presentation of the claim language does not preclude this interpretation as the mouse inherently provides a storage instruction signal when placed over the correct area, regardless of whether the GUI/operating system/software or any combination thereof actually processes it. As such the argument is not persuasive and the rejection stands.

Applicant further alleges:

"Likewise, the Real reference does not disclose a method including a step of receiving a reproduction instruction signal transmitted from said remote controller, by means of the signal reception section of said apparatus. Again, the Real reference is disclosing the receiving of directional signals and button selection signals and utilizing the directional signals to move a cursor to a location on the Real Jukebox GUI and the button selection signal to select the item underneath the cursor. The application software receives this information from the application software GUI to execute an instruction to select a graphical equalizer setting. This is not receiving a reproduction instruction from a remote controller because the Real reference is disclosing only the reception of directional signals and button selection signals from the mouse, not a reproduction

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instruction. In other words, the mouse, even if it were a remote controller, is not transmitting a reproduction instruction signal. Accordingly, Applicant respectfully submits that claim 1 further distinguishes over the Real reference."

Examiner respectfully disagrees with this allegation. Applicant is essentially arguing that the Real reference is not teaching a step of receiving a reproduction instruction signal transmitted from said remote controller, by means of the signal reception section of said apparatus. Applicant again supports this argument by stating the system is merely utilizing the direction signals to move a cursor to a location on the GUI and button selection signals that are used by the application to execute an instruction. Again, Applicant agrees essentially that Real teaches a step of receiving an instruction signal transmitted from said remote controller, by means of a signal reception section of said apparatus.

However, when this mouse is placed over the drop down menu, the next selection via any click of the mouse effectively becomes a reproduction instruction. Thus, any click of the mouse provides a reproduction instruction whenever the mouse is placed over the correct area. The current presentation of the claim language does not preclude this interpretation as the mouse inherently provides a reproduction instruction signal when placed over the correct area, regardless of whether the GUI/operating system/software or any combination thereof actually processes it. As such the argument is not persuasive and the rejection stands.

Applicant's arguments regarding **Claim 2** are not found to be persuasive for the same reasons discussed above regarding claim 1.

Applicant further alleges regarding claim 3:

"The Girling reference does not make up for the deficiencies of the Real reference. The Examiner states that the Girling reference discloses that an operating system interprets and carries out instructions issued by the user, e.g., when a user wants to load a program module, the operating systems interprets the instruction and causes the CPU to load the program module into RAM from the disk drive. (Office Action, page 7). The Examiner points out that an equalizer setting is such a program code. The applicant understands the Examiner's utilization of the Girling reference and would like to add to the Examiner's description of the Girling reference's disclosure. The applicant believes the Examiner has oversimplified how an equalizer setting program is loaded into RAM because the equalizer setting program is a part of the Real Jukebox software. Thus, the equalizer setting module is not necessarily separately loaded by an instruction by the user. Instead, it more likely is installed into RAM when the Real Jukebox software is initiated."

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

It is respectfully submitted that Applicant is not considering the combination of the rejection as a whole. It is possible, perhaps even likely (which the Examiner does not necessarily agree with) as Applicant suggests that the equalizer setting module is not necessarily separately loaded by an instruction by the user and instead, it more likely is installed into RAM when the Real Jukebox software is initiated. However, in the

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combination, the Girling reference discloses loading program modules into RAM from the disk drive. Thus the equalizer settings (program modules) are loaded into RAM from the hard drive as determined by the user in the instant case of the combination. As such the argument is not persuasive and the rejection stands.

The arguments regarding the Shindler and Mogi references are not persuasive for the same reasons stated above in the discussion of claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Real (Real Jukebox Plus Manual).

Regarding **Claim 1**, Real discloses:

A method for controlling parameters to be set in an apparatus in response to a user operation of a remote controller (i.e. a mouse for controlling the software; pages 3 and 4; and a graphic equalizer which can be set with the mouse; page 15), said method comprising:

a step of receiving a storage instruction signal transmitted from said remote controller, by means of a signal reception section of said apparatus (i.e. the user can select with the mouse disclosed on pages 3 and 4 a save settings as command which allows the user to save the current settings of the graphic equalizer; page 16);

a step of storing settings of a plurality of parameters, currently set in said apparatus, into a memory of said apparatus in response to the storage instruction signal received from said remote controller (i.e. the user can select with the mouse disclosed on pages 3 and 4 a save settings as command which allows the user to save the current settings of the graphic equalizer; page 16);

a step of receiving a reproduction instruction signal transmitted from said remote controller, by means of the signal reception section of said apparatus (i.e. the user can select from a variety of saved equalizer settings via a drop down menu; see the figure on page 15);

a step of reading out the settings of the parameters stored in said memory, in response to the reproduction instruction signal received from said controller; and a step of controlling the plurality of parameters to be set in said apparatus, on the basis of the settings read out from said memory by said step of reading out. (i.e. once a user selects a preset setting via the drop down menu, the graphic equalizer is adjusted accordingly; page 15).

Regarding **Claim 2**, Real discloses:

An audio apparatus comprising:

a controlled section operating in accordance with a plurality of set parameters (i.e. the various frequency bands listed on the graphic equalizer on page 15 of Real);

a signal reception section that receives a control signal transmitted from a remote controller (i.e. a mouse for controlling the software; pages 3); and

a first memory that stores settings of a plurality of parameters to be set in said controlled section (i.e. a hard drive, of which the program is to be installed on,; see page 67);

a control section that, when said signal reception section has received from said remote controller a predetermined storage instruction indicated by said control signal, stores first settings of the plurality of parameters currently set in said controlled section in said first memory in response to the storage instruction (i.e. the user can select with the mouse disclosed on pages 3 and 4 a save settings as (*predetermined storage instruction*) command which allows the user to save the current settings of the graphic equalizer; page 16; and the program is stored on the hard drive; page 5 (*first memory*)), and

when said signal reception section has received from said remote controller a first reproduction instruction indicated by said control signal, reads out said first settings stored in said first memory in response to said first reproduction instruction and, on the basis of the read out first settings, performs setting of a plurality of parameters in said controlled section (i.e. the user can select from a variety of saved equalizer settings via a drop down menu; see the figure on page 15; and once a user selects a preset setting

via the drop down menu, the graphic equalizer is adjusted accordingly by the computer (*the control section*); page 15).

Regarding **Claim 6**, in addition to the elements stated above regarding claim 2, Real further discloses:

wherein said apparatus is an audio amplifier, and the plurality of parameters include parameters pertaining to two of input switching, surround setting, sound volume setting and frequency characteristic setting parameters (i.e. Real's device includes an equalizer; page 15).

Regarding **Claim 9**, Real discloses:

A remote controller comprising:

a first signal transmission section that (i.e. the adjustable levels within the equalizer disclosed on page 15), in response to first operation by a user, transmits, to an audio apparatus (i.e. the graphic equalizer), a first control signal for controlling one of a plurality of parameters which are currently set in said audio apparatus (i.e. the user can adjust the levels of the equalizer with the mouse; pages 3, 4 and 15); and

a second signal transmission section that (i.e. the save settings as command disclosed on page 16), in response to a second operation by the user, transmits to said audio apparatus (i.e. the graphic equalizer), a second control signal for storing settings of the plurality of parameters, currently set in said audio apparatus into a memory of

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said audio apparatus (i.e. the save settings as allows the user to save the current settings for later use; page 16).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Real (Real Jukebox Plus Manual) in view of Girling (U.S. Patent 6,092,067).

Regarding **Claim 3**, in addition to the elements stated above regarding claim 2, Real fails to explicitly disclose the limitations set forth in claim 2.

However, Real's software is adapted to be used within a standard personal computer system that contains an operating system, a hard drive, of which the program is to be installed on, and a RAM; see page 67.

Girling discloses an operating system that interprets and carries out instructions issued by the user, for example, when a user wants to load a program module (*an*

equalizer setting), the operating system interprets the instruction and causes the CPU to load the program code into RAM from the hard disk drive.

Adapting Real's software onto a standard personal computer and operating it in a manner disclosed by Girling would thus create a second memory that stores second settings of the plurality of parameters currently set in said controlled section (i.e. the RAM disclosed by Girling would have been loaded with the saved equalizer settings disclosed by Real), ,

wherein when said signal reception section has received the predetermined storage instruction indicated by the control signal from said remote controller, said control section transfers said second settings stored in said second memory to said first memory for storage therein (i.e. when the user wants to save the current setting of the graphic equalizer, they select save as and it is stored to the hard drive for later use), and

wherein said signal reception section has received the first reproduction instruction or a second reproduction instruction indicated by the control signal from said remote controller (i.e. when the user selects a setting from the pull down menu), said control section transfers the first settings or the second settings stored in said first memory, respectively to said second memory for storage therein (i.e. the program loads the setting from the hard drive into the RAM for active use).

It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt Real's program as taught by Girling. One would have been

motivated to do so to allow a user to quickly access and load a variety of saved settings and to assist the computer allowing it to process the information fast.

Regarding **Claim 4**, in addition to the elements stated above regarding claim 3, the combination of Real in view of Girling further discloses:

wherein once said signal reception section has received the first or second reproduction instruction, said control section transfers the first or second settings stored in said first memory to said second memory for storage therein (i.e. Girling discloses load the program code (i.e. Real's equalizer settings) into RAM from the hard disk drive)

after the storage of said first or second settings into said second memory, (said control section) controls a plurality of parameters to be set in said controlled section on the bases of the storage of said settings in said second memory (i.e. when the user loads a setting from the hard drive into the RAM in the combination for active use, the graphic equalizer is adjusted accordingly by the computer (*the control section*); page 15).

Regarding **Claim 8**, in addition to the elements stated above regarding claim 8, the combination of Real in view of Girling further discloses:

wherein said first memory is a non-volatile memory (i.e. a hard drive) and while said second memory is a volatile memory (i.e. RAM).

Regarding **Claim 10**, in addition to the elements stated above regarding claim 9, Real further discloses:

a third signal transmission section that (i.e. the pull down menu for selecting equalizer settings), in response to a third operation by a user, transmits, to said apparatus (i.e. graphic equalizer), a third control signal for reading out from the memory of said audio apparatus, the settings of the plurality of parameters to be set in said audio apparatus (i.e. once a user selects a preset setting via the drop down menu, the graphic equalizer is adjusted accordingly; page 15).

Real doesn't explicitly disclose wherein the plurality of parameters to be set in said audio apparatus are collectively controlled on the basis of the settings read out from another memory of said audio apparatus.

Girling discloses an operating system that interprets and carries out instructions issued by the user, for example, when a user wants to load a program module (*an equalizer setting*), the operating system interprets the instruction and causes the CPU to load the program code into RAM from the hard disk drive.

Adapting Real's software onto a standard personal computer and operating it in a manner disclosed by Girling would thus create a second memory (RAM) that stores settings of the plurality of parameters read out from the hard drive and stored to control the graphic equalizer which would read upon the limitation of wherein the plurality of parameters to be set in said audio apparatus are collectively controlled on the basis of the settings read out from another memory of said audio apparatus.

It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt Real's program as taught by Girling. One would have been motivated to do so to allow a user to quickly access and load a variety of saved settings and to assist the computer allowing it to process the information fast.

Regarding **Claim 11**, in addition to the elements stated above regarding claim 11, the combination of Real in view of Girling further discloses:

an operator to be used for both of said second and said third operation (i.e. a user controls the operations)

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Real (Real Jukebox Plus Manual) in view of Schindler (U.S. Patent 5,900,867) and in further view of Mogi (U.S. Patent 3,944,982).

Regarding **Claim 5**, in addition to the elements stated above regarding claim 2, Real fails to disclose the limitations set forth in claim 5.

Schindler discloses a keyboard remote with RF generating circuitry (col. 15 lines 5 – 10), the keyboard remote includes a touch pad that permits easy manipulation of the cursor (col. 14 lines 54 - 58).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use Schindler's keyboard in place of Real's mouse. One would have been motivated to do so in order to move freely while not being restricted by wires and to

implement the device in a home theater system that is commonly available within many households.

The combination of Real in view of Schindler fails to disclose the remaining elements of Claim 5.

Mogi discloses a remote control system for selectively controlling plural functions of an electric apparatus (abstract) and for transmitting different pulse length signals for different commands (Figs. 2A – 2D), the pulse signals are then detected by the detector to determine the command.

Applying this method of remote control to the remote control disclosed by the combination of Real in view of Schindler reads upon the limitation of wherein said control section measures a length of time over which a predetermined control signal transmitted from said remote controller is continuously detected.

Further, applying a longer pulse to the storage instruction and a shorter pulse to the reproduction instruction disclosed by Real as taught by Mogi (Mogi allows this interpretation as the duration of the pulses assigned to the various commands are irrelevant and are merely a design choice; thus changing the assignment does not provide a significant advantage over the prior art in the form of an unexpected result), the transmissions by Schindler for the Real system will read upon the limitations of, and when the predetermined control signal has been continuously detected for more than a predetermined length, said control section determines the predetermined control signal to be the predetermined storage instruction, whereas when the predetermined control signal has been continuously detected for less than the predetermined time length, said

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control section judges the predetermined control signal to be the predetermined reproduction instruction.

It would have been obvious to one of ordinary skill in the art to apply the command transmission technique as taught by Mogi to the remote control disclosed in the Real/Schindler combination. One would have been motivated to do so to ensure the quality transmission of signals.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Real (Real Jukebox Plus Manual) in view of Schindler (U.S. Patent 5,900,867).

Regarding **Claim 7**, in addition to the elements stated above regarding claim 2, Real fails to disclose the limitations set forth in claim 7.

Schindler discloses a personal computer system with a power supply (Fig. 3 element 342), the power supply has associated control circuitry and is coupled to an RF receiver to receive signals representative of power on and power off commands from the remote control devices.

Applying this teaching to the mouse and computer system disclosed by Real would read upon the limitation of wherein when said signal reception section has received the predetermined reproduction instruction indicated by the control signal from the remote controller while a main power supply for driving said controlled section is not in an ON state, said control section also performs control to turn on the main power supply.

It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt the reproduction instruction as disclosed by Real to power the system remotely as disclosed by Schindler. One would have been motivated to do so to quickly power up the system and avoid unnecessary delays associated with the power on procedure.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Flanders whose telephone number is (571) 272-7516. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7546. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SINH TRAN
SUPERVISORY PATENT EXAMINER

acf